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5 **State of Washington**  
6 **GROWTH MANAGEMENT HEARINGS BOARD**  
7 **FOR EASTERN WASHINGTON**  
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10 JULIA McHUGH, PALISADES  
11 NEIGHBORHOOD, and NEIGHBORHOOD  
ALLIANCE OF SPOKANE,

12 Petitioner,

13 v.

14 SPOKANE COUNTY,

15 Respondent,

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17 GREG and KIM JEFFREYS, GJ L.L.C., and  
18 G.J. GENERAL CONTRATORS,

19 Intervenor.  
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(Spokane County Superior Court  
Cause No. 06-2-001367)

**Case No. 05-1-0004**

**Order Granting Certificate of  
Appealability**

23 **I. APPLICATIONS FOR CERTIFICATE OF APPEALABILITY**

24 On December 16, 2005, the Eastern Washington Growth Management Hearings  
25 Board (the Board) issued its Final Decision and Order (FDO) in EWGMHB Case No. 05-1-  
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0004 JULIA McHUGH, et al. v. SPOKANE COUNTY and [GREG and KIM JEFFREYS, GJ L.L.C., and G.J. GENERAL CONTRACTORS – Intervenor].

On January 12, 2006, the Board received Spokane County's, (Petitioner in Spokane County Superior Court Case No. 06-2-001367), Revised Petition for Judicial Review Pursuant to RCW 36.70A.300(5).

On February 1, 2006, the Board received a Notice of Appearance filed by attorney Rick Eichstaedt on behalf of Julia McHugh et. al., (Respondent in Spokane County Superior Court Case No. 06-2-001367).

On February 9, 2006, the Board received a Motion for Direct Review and Request for Certificate of Appealability filed by Mr. Eichstaedt. The Board has not received a response from Spokane County or the Intervenor as of this date.

On February 24, 2006, the Board received Spokane County's Motion for Stay of Enforcement of Final Decision and Order.

The Board's jurisdiction is generally limited<sup>1</sup> to addressing whether local governments within the Eastern Washington region have complied with the goals and requirements of the state's Growth Management Act (GMA – Chapter 36.70A RCW) and whether local governments within that region have complied with the provision of the Shoreline Management Act (SMA – Chapter 90.58 RCW).

## **II. DISCUSSION AND FINDINGS**

The Board's authority regarding Certificates of Appealability is set forth in RCW 34.05.518, which provides in relevant part:

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.12B.005 and growth management hearings boards identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of Appealability if it finds that *delay* in obtaining a final and prompt determination of the issues *would be detrimental to any party or the public interest* **and either:**

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<sup>1</sup> See: RCW 36.70A.280

- 1 (i) Fundamental and urgent state-wide or regional issues are  
2 raised; or  
3 (ii) The proceeding is likely to have significant precedential value.

4 (Emphasis supplied.)

5 The Board is bound by the criteria established in RCW 34.05.518(3)(b)(i-ii) in  
6 determining whether to issue a Certificate of Appealability. In applying these criteria to the  
7 present case, and in evaluating the argument presented by Mr. Eichstaedt's Application, the  
8 Board finds and concludes as follows:

9 Mr. Eichstaedt argues that a delay in the prompt and final determination of the  
10 issues in this case would be detrimental to the public interest because local governments  
11 are likely to delay updates to their Capital Facilities Plan prior to the expansion of the UGA  
12 pending resolution of this matter. The County itself seeks the resolution of the issues raised  
13 in this matter prior to the review of the expansion of the UGA or update of their Capital  
14 Facilities Plan. (See County's Motion to stay enforcement of Final Decision and Order,  
15 February 23, 2006.) The Board finds that the arguments of the Petitioners herein are valid.

16 The Board finds that during the pendency of the subject appeal, the County will  
17 continue to process the permit application for the development in the expanded UGA. The  
18 decision by the courts will be ineffective once the permits vest. This would frustrate not  
19 only the goals of the GMA but would be detrimental to public policy. Decisions of the  
20 Growth Boards would be seriously weakened and violations of State Law would go on with  
21 little oversight. This result is occurring often and is of statewide interest. The legal issue is  
22 also of statewide interest, for expansion of the UGA has now become very common and if  
23 not properly done, will frustrate the GMA goals to limit sprawl and restrict urban growth  
24 within urban areas.

1 **III. CONCLUSION**

2 Pursuant to RCW 34.05.518, the Board **grants** Respondent, McHugh's Application for  
3 a Certificate of Appealability.

4 **SO ORDERED** this 8<sup>th</sup> day of March 2006.

5 EASTERN WASHINGTON GROWTH MANAGEMENT  
6 HEARINGS BOARD

7 \_\_\_\_\_  
8 Dennis Dellwo, Board Member

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10 John Roskelley, Board Member

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12 Judy Wall, Board Member